



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: J.C. Adams, Inc.

File: B-252132

Date: May 18, 1993

Edward W. Mitura for the protester.
Katherine S. Nucci, Esq., Dykema Gossett, for Penn Enterprises, Inc., an interested party.
Major Bobby G. Henry, Jr., and Roseann Sendek, Esq., Department of the Army, for the agency.
Katherine I. Riback, Esq., and Paul Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency properly rejected as nonresponsive a bid which the protester submitted on a schedule that it had prepared itself which varied in material respects from the solicitation bid schedule.

DECISION

J.C. Adams, Inc. protests the rejection as nonresponsive of its bid under invitation for bids (IFB) No. DAKF19-92-B-0032, issued by the Department of the Army for laundry and dry cleaning services at Fort Riley, Kansas. J.C. Adams argues that the discrepancies in its bid were "slight" and inadvertent, and asserts that it established its intention to meet the IFB specifications by a blanket promise to comply in its cover letter.

We deny the protest.

The IFB, issued on September 29, 1992, solicited bids for a base year with 3 option years. The solicitation contained a 130-page bid schedule that listed every item processed by a quartermaster laundry dry cleaning facility, the estimated quantity of each item to be processed in a year and the finishing code, which establishes how each particular item is to be cleaned and finished.¹ The agency issued five

¹For example, line item 0004CT requests a price for processing an estimated quantity of 1,861 butchers' smocks
(continued...)

amendments to the IFB. Amendment 4, among other things, changed the finishing codes for approximately 20 line items. Prior to bid opening, a representative of J.C. Adams contacted the contract specialist, concerning whether it could submit a form that J.C. Adams had prepared as the bid schedule, which used the format and the information contained in the solicitation bid schedule. According to the protester, the contract specialist replied that this would be acceptable so long as the bid schedule that J.C. Adams prepared did not qualify its bid.

Nine bids were received on December 16, the revised opening date. J.C. Adams's low evaluated bid of \$1,407,101 was submitted on its own version of the bid schedule. J.C. Adams also submitted a cover letter with its bid which stated that:

"Because of the extensive numbers of line items and the many changes that we incurred during preparation, we have prepared our bid on our own form which copies all pertinent information from section B. We have utilized the exact page numbering system so all items appear on the same page as your preprinted form. We agree to all prices in the unit price as if they had been printed on the original government supplied section B."

The contract specialist compared the line items in the solicitation bid schedule with the line items in the bid schedule prepared by the protester and found 43 discrepancies in the base year line items. The contract specialist determined that the item descriptions in the protester's bid schedule for the base year were incomplete or incorrect 26 times, the finishing codes were incorrect 16 times, and the estimated quantity of an item to be processed was wrong once. The contract specialist noted that these errors appeared for the option years as well. The agency determined that the protester qualified its bid by changing the finishing codes and otherwise varying the requirements established by the bid schedule, and therefore rejected J.C. Adams's bid as nonresponsive. This protest followed.

¹(...continued)

for the base year. The finishing code is "WDF," which indicates that the smocks are to be washed, dried, and folded.

J.C. Adams contends that any discrepancies between its version of the bid schedule and the bid schedule contained in the solicitation were "slight" and inadvertent. J.C. Adams argues that its assurance in its bid cover letter that it agreed to its prices as if they had been printed on the government supplied schedule constituted its unequivocal promise to comply with the IFB requirements.

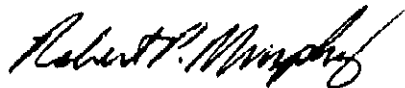
Generally, to be responsive, a bid must be an unequivocal offer to perform without exception the exact thing called for in the solicitation so that acceptance of the bid will bind the contractor to perform in accordance with all the IFB's material terms and conditions. Southwest Marine, Inc., B-247639, May 12, 1992, 92-1 CPD ¶ 442. Where a bidder provides information with its bid that modifies or takes exception to an IFB's requirements, the bid must be rejected as nonresponsive. Northwestern Motor Co., Inc., B-244334, Sept. 16, 1991, 91-2 CPD ¶ 249.

Here, the IFB's finishing codes represent material requirements since they specify the work to be performed for each item. J.C. Adams's use of finishing codes that are at variance with the finishing codes required under the solicitation bid schedule therefore is a material deviation from the IFB requirements because J.C. Adams's offer in effect is to provide services other than those required. Therefore, the agency properly rejected J.C. Adams's bid as nonresponsive.

J.C. Adams argues that regardless of any discrepancies in its bid schedule, its bid was responsive because it included an assurance in a cover letter that it intended to meet the specifications. Such a blanket statement of compliance contained in a bid which is otherwise noncompliant with the solicitation's material requirements is not sufficient to make the bid responsive. Hagglunds Prinoth, B-238244, Apr. 12, 1990, 90-1 CPD ¶ 385. To the extent that the protester suggests that its conversation with the contract specialist provided authorization to use such a cover letter statement to correct any schedule deviations, the protester appears to have misconstrued the contract specialist's advice. The contract specialist stated that J.C. Adams could use its own bid schedule form only if the form prepared by J.C. Adams did not qualify its bid. This advice is consistent with Federal Acquisition Regulation (FAR) § 14.301(d), which provides that if a bidder uses its own bid form, the bid may be considered only if the bidder

accepts all the terms and conditions of the solicitation, and award on the bid would result in a binding contract with terms and conditions that do not vary from those of the solicitation. However, this advice did not mean that J.C. Adams was free to vary the material terms of the IFB on its own bid schedule form or that a blanket offer of compliance would be sufficient to cure such a variance.

The protest is denied.



for James F. Hinchman
General Counsel